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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,118	02/11/2004	Dong-Kyu Lee	678-1157	2794
66547 7590 06/24/2009 THE FARRELL LAW FIRM, LLP 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER				
BEAMER, TEMICA M				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
06/24/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/776,118

Applicant(s)

LEE, DONG-KYU

Examiner

TEMICA M. BEAMER

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 9, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 3-8, 10-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/29/2008 have been fully considered but they are not persuasive. Applicant argues that the distribution server (22) described in Aikoh is not the same as the content server claimed. Specifically, the applicant argues that the distribution server in Aikoh does not receive content information for particular content to be resold from a seller terminal in reply to a request by a seller who wishes to resell the content over a communication network, searches a content corresponding to the content information in a database, and registers the searched content as secondhand content.

The examiner, however, disagrees. As described before, Aikoh discloses an electronic data transaction method and system. The electronic system is a secondhand selling system for reselling music contents at a lower price than the original price (0022). The system further discloses a distribution server 22 which receives information or instructions related to the secondhand music (0080, 0082, 0085). This server reads on the presently claimed content server.

Distribution server 22 receives music data from a seller who desires to resell music at a second price (0039). The music is transferred from the seller terminal to the server 22. The music is inherently registered as evidenced by the fact when a user who desires to purchase the second hand content, the server searches for the desired music

of the purchaser (0084). Once the desired music is found the music is transmitted from the server to the buyer's terminal (0084).

Therefore, the examiner maintains that Aikoh reads on the claimed invention and the rejection is set forth below.

It should be noted that 112 rejection in the last office has been overcome based on the arguments and amendment filed 2/24/2009.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 9, 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Aikoh et al (Aikoh), U.S. Patent Pub. No. 2004/0111341.

Regarding claims 1, 2, 9, 14 and 15 Aikoh discloses a method for reselling content, comprising the steps of: (a) receiving, by a content server (22), content information (music) for, particular content to be resold from a seller terminal in reply to a request by a seller who wishes to resell the content over a communication network, and registering a content according to the content information in a database and (b) in reply to a request by a buyer to buy the secondhand content, searching for corresponding

secondhand content and providing, by the content server (22), the corresponding secondhand content to a buyer terminal, and transmitting sale information for the secondhand content to the seller terminal (0022, 0077-0080, 0082, 0085, 0097, 0119, 0123).

Aikoh further discloses paying a sale price for the secondhand content to the seller after charging a fee for the secondhand content to the buyer (0123) and paying to the seller an amount of money determined by subtracting a predetermined commission from a fee for the secondhand content paid by the buyer (0123).

Allowable Subject Matter

4. Claims 3-8 and 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TEMICA M. BEAMER whose telephone number is (571)272-7797. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Temica M. Beamer/
Primary Examiner, Art Unit 2617